IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1583 OF 2004

Rajendra Anant Padekar ..Petitioner.

V/s.

The State of Maharashtra & Ors. ..Respondents.

Shri Naveen Chomal for Petitioner.
Shri A.S. Gadkari, APP for Respondent-State.

CORAM : A.M.KHANWILKAR, J.
DATED : 27.10.2004

PC :-

. Heard counsel for the parties.

2. Rule. Rule made returnable forthwith. Shri A.S.Gadkari, APP waives service for respondent -State. As a short question is involved, the petition is taken up for final hearing by consent.

3. By this petition, the petitioner takes exception to the orders passed by the D.I.G. Prisons, Central Zone, Aurangabad dated 25.3.2004, rejecting the application, preferred by the petitioner for being released on furlough leave for a period of two weeks. The principal reason stated in the impugned order is

that while the petitioner was released on furlough leave on the earlier occasion, he committed an offence which is registered as C.R. No. 268/2002, punishable under section 324, 326 and 34 of I.P.C.. According to the petitioner, in a similar situation other prisoners have been released on furlough leave. The names of those prisoners have been mentioned in the further affidavit filed by the petitioner, namely, (i) Raman Waman Patil C-2114 (Alibaug) and (ii) Chhotu Ramlal Chaube (Nagpur). According to the petitioner, there are other instances of similar nature but those prisoners have been favoured with the furlough leave unlike the petitioner herein. The fact that such orders have been passed in favour of the otehr prisoners is not in dispute before this court. If it is so, the appropriate course to my mind is to set aside the impugned order and relegate the parties for reconsideration of the application by the concerned authority, which was originally filed by the petitioner. That appilcation be decided within three weeks from the receipt of writ of this court. Petition succeeds in the above terms.

4. Order accordingly.

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